

MAINTENANCE AND TECHNICAL SUPPORT SERVICE STANDARD TERMS AND CONDITIONS Opal Computer Solutions Ltd.

1. DEFINITIONS

In these Conditions the following words shall have the following meanings:

- 1.1 "Annual Support Charge" means the annual charge for the Maintenance Service set out in the Contract as may be varied from time to time pursuant to Condition 5.
- 1.2 "Charges" means the Annual Support Charge and the Technical Support Charge.
- 1.3 "The Costs Factor" means the deficit between the costs actually incurred by OPAL in providing the Services (or the Services which are subject to an increase in Charges) during the Year in which notice of an increase in Charges is served and the proportion of the Charges paid by the Customer which relates to the period of the Year prior to termination of all or part of the Services.
- 1.4 "The Customer" means the company, person or organisation requiring the Services whose name and invoice address is set out in the Contract.
- 1.5 "Consumables" are these components which are subject to fair wear and tear and to be replaced at the expense of the Customer. The requirement to change a Consumable and the time at which the replacement is necessary shall be at the discretion of the Engineer. Consumables will be defined in "Variations to standard terms and conditions" in the Contract. The defined Consumables are subject to change and any changes will be notified to the Customer by OPAL.
- 1.6 "The Contract" means the contract for the provision of the Services subject to these Conditions which shall govern the Contract to the exclusion of any terms submitted by the Customer, details of which are set out overleaf.
- 1.7 "Effective Date" means the date set out in the Contract for the commencement of the Services.
- 1.8 "The Engineer" means the employee or agent nominated by OPAL to visit the Site in the event of equipment breakdown or malfunction to carry out the Maintenance Service.
- 1.9 "The Equipment" means the equipment which is the subject of the Maintenance Service as described in the Equipment schedule to the Contract.
- 1.10 "Insolvency Event" means if a party becomes insolvent, has a receiver appointed over the whole or any part of its assets, enters into any compound with creditors, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of a scheme for amalgamation or reconstruction) or if the ownership or control of it shall pass into the hands of any other legal person, or an event analogous occurs in respect of a party in any jurisdiction to which that party is subject.
- 1.11 "The Maintenance Service" means the maintenance of the Equipment to be provided to the Customer by OPAL as described in Condition 2.1.
- 1.12 "Opal" means Opal Computer Solutions Ltd.
- 1.13 "Normal Business Hours" means the working hours of 9.00 am to 5.00 pm, on a Working Day.
- 1.14 "The Services" means the Maintenance Service and the Technical Support Service.
- 1.15 "The Site" means the Customer's premises specified in the Contract or such other premises as OPAL may in writing agree.
- 1.16 "Technical Support Charge" means the annual charge for the Technical Support Service set out in the Contract as may be varied from time to time pursuant to Condition 5.
- 1.17 "The Technical Support Service" means the service to be provided to the Customer by OPAL as described in Condition 13 herein.
- 1.18 "Working Day" means Monday to Friday inclusive but excluding statutory and public holidays in England.
- 1.19 "Year" means the period of 12 months from the Effective Date and each consecutive period of 12 months thereafter during the continuance of the Contract.

2. MAINTENANCE SERVICE

- 2.1 In consideration of the payment by the Customer of the Annual Support Charge, OPAL shall provide in respect of the Equipment, the following as the Maintenance Service subject to these Conditions:
 - 2.1.1 In the event of a breakdown or malfunction of the Equipment being reported by the Customer to OPAL, OPAL shall (unless the Customer is able to remedy the same following advice from OPAL by fax, telephone or other electronic communication) send the Engineer to Site during Normal Business Hours to test, adjust or repair the Equipment as may seem appropriate to him in accordance with Condition 2.1.2.
 - 2.1.2 Following receipt of notification from the Customer to OPAL of a breakdown or malfunction as aforesaid the Engineer will use his reasonable Endeavours to visit Site if reasonably necessary within 8 Normal Business Hours of receipt of notification by OPAL provided always that any notification outside Normal Business Hours shall be deemed received at the beginning of the next period of Normal Business Hours.
 - 2.1.3 Any installation of replacement parts required to remedy such breakdown or malfunction shall be carried out in accordance with the provisions of Condition 3.
 - 2.1.4 In the event of it not being possible to repair the Equipment during the first visit then OPAL will use its reasonable endeavours to escalate priority of repair to such parties as appropriate to remedy a satisfactory repair.
- 2.2 The Maintenance Service shall not include the adjustment, repair or correction of any defect in any part of the Equipment:
 - 2.2.1 which has been modified or moved by an unauthorised party; or
 - 2.2.2 which has been incorrectly or negligently handled or used; or
 - 2.2.3 where the Customer has failed to comply with any instructions or recommendations of OPAL in respect of the use, environment or choice of Consumables for the Equipment including a failure to comply with any of the obligations of the Customer set out in Condition 6; or
 - 2.2.4 which has been the subject of overloading or unsuitable work; or
 - 2.2.5 where such adjustment, repair or correction is required as a result of causes other than ordinary or normal use, including without limitation accident, hazard, misuse or failure or fluctuation of electric power or adverse environmental conditions; or
 - 2.2.6 which is due to any defect or malfunction which is due to design, faulty materials or workmanship in manufacture.
- 2.3 The Maintenance Service does not provide for data backup, data restoration, software set-up, equipment configuration or disaster recovery services for which telephone or on-site support is available in accordance with Condition 12.
- 2.4 The Customer will, if requested by OPAL, allow a representative of OPAL to visit Site on or before the Effective Date to inspect the Equipment in order to ascertain whether the Equipment is in good condition. This visit and any repair deemed necessary by OPAL will be charged to the Customer at OPAL's prevailing rates for labour and materials in addition to the Charges.

3. REPLACEMENT OF MATERIALS AND COMPONENTS

- 3.1 In the event that OPAL advises the Customer that or any part of the Equipment needs to be replaced, such replacement will be carried subject to the terms and conditions set out below:
 - 3.1.1 Fair Wear and Tear - If due to normal use of the Equipment and as a result solely of fair wear and tear, components or parts become defective then OPAL undertakes to replace such parts provided that all Charges due to OPAL from the Customer have been paid and provided that the replacement is for the purpose only of ensuring the correct functioning of the Equipment.
 - 3.1.2 Misoperation or Maltreatment - If the need for replacement of components or parts has arisen from any circumstances as are described in Condition 2.2 then OPAL reserves the right to charge the Customer for the parts replaced and the labour involved in replacing them.
 - 3.1.3 External Causes - If the need for replacement of the components arises from any external cause (including, but without limitation, fire, flood, storm, tempest, liquid damage, faults in electrical supply, failure of air conditioning plant or damage caused during any burglary, housebreaking, civil commotion, riot or disturbance or any other causes of a similar or allied nature) then OPAL reserves the right to charge the Customer for replacement Equipment parts and labour.
 - 3.1.4 Exceeding Reasonable Life - If a component or part of the Equipment has in OPAL's opinion exceeded its reasonable life, then OPAL may at its option and upon giving not less than one month's notice in writing to the Customer, request the Customer to replace the part or assembly at the Customer's entire expense, failing which OPAL shall be entitled to strike out that part or assembly from the definition of the Equipment and thereafter OPAL shall have no liability in respect of such component part or any consequential effect the component or part might have on any other part of the Equipment due to its continued use.
 - 3.1.5 Undetected Causes - when replacement of components, parts or materials becomes necessary and the need for the replacement cannot reasonably be attributed to any of the causes listed above then OPAL undertakes to replace all such components, parts or materials.
 - 3.2 Notwithstanding the provision of Condition 3.1.4, the Maintenance Service does not cover the supply, replacement or fitting of any Consumable, or any other item which OPAL at its sole discretion considers to have reached the end of its useful life or which is considered to be beyond economical repair.
 - 3.3 Any parts or components replaced by OPAL shall become the property of OPAL.

4. CHARGES

- 4.1 The Charges shall be invoiced by OPAL and paid for by the Customer annually in advance unless agreed otherwise.
- 4.2 Payment of Charges invoiced by OPAL under Condition 4.1 will be due either 30 days following the date of invoice or on the day upon which the Services are to commence, whichever is the earliest.
- 4.3 If any sum payable under the Contract or under any other separate contract between OPAL and the Customer is not paid within seven days after the due date then (without prejudice to OPAL's other rights and remedies) OPAL reserves the right:
 - 4.3.1 to charge interest on such sum on a day to day basis (whether or not as before any judgement) from the due date to the date of payment (both dates inclusive) at the rate of five (5) per cent above the base rate of the Bank of England for the time being in force; and/or
 - 4.3.2 require the return by the Customer of any spare parts provided to it by OPAL in the course of performance of its obligations under the Contract and where the Customer refuses to return any such spare parts, OPAL shall have the right to enter the Site or such other premises where the spare parts are located and remove the same; and/or
 - 4.3.3 to suspend performance of the Services until the date of payment in full (including any interest accrued). Provided that if the Customer subsequently requests OPAL to resume its Maintenance Service OPAL may require that prior to resumption the Customer instructs OPAL to carry out a full overhaul of the Equipment at the Customer's cost at OPAL's prevailing rates for labour and materials required to ensure that the Equipment is in good condition.
- 4.4 The Charges are unless stated otherwise exclusive of VAT which shall be payable by the Customer in addition.

5. INCREASES IN THE CHARGES

- 5.1 OPAL shall be entitled at any time by serving not less than 60 Working Days' notice to increase in its discretion the amount of either or all of the Charges. Such notice shall expire on or before the date on which the increase in the Charges is to take effect and shall set out the amount (if any) of the rebate which the Client will be entitled to if all or part of the Contract is terminated by the Customer pursuant to Condition 5.2.

5.2 In the event that the Customer no longer wishes to continue to receive the Services on the basis of the increase in the Charges notified to it pursuant to Condition 5.1, then the Customer shall be entitled to serve on OPAL not less than 45 days' notice of its intention to terminate the Contract or that part of the Contract which relates to Services in respect of which the Charges are to be increased, such notice to expire prior to the increase becoming effective in accordance with Condition 5.1 above.

5.3 In the event that the Customer terminates the whole or part of the Contract in accordance with Condition 5.2 then OPAL shall re-pay to the Customer an appropriate rebate of the Charges calculated on the basis of the proportion of the Year in respect of which all or part of the Services have been terminated and after deduction of the Costs Factor. In the event that the Costs Factor exceeds the Charges for the Year during which the increase takes effect, then the Customer shall receive no rebate but shall not be obliged to make any further payment in respect of the Costs Factor.

6. MAINTENANCE SERVICE OBLIGATIONS OF THE CUSTOMER

- 6.1 The Customer shall maintain proper environmental and operational conditions for the efficient working and maintenance of the Equipment and shall use the Equipment only in accordance with the manufacturers' and OPAL's recommendations.
- 6.2 The Customer shall promptly notify OPAL of any faults or abnormal functioning arising in the operation of the Equipment.
- 6.3 The Customer shall afford the personnel of OPAL during normal working hours full and safe access to the Site and shall provide adequate free working space and such other facilities as may be necessary for OPAL to carry out the Maintenance Service.
- 6.4 The Customer will provide OPAL promptly with any technical and/or any other information which OPAL may reasonably require from time to time to enable it to carry out the Maintenance Service.
- 6.5 The Customer shall not move the Equipment from the Site without OPAL's prior approval.
- 6.6 The Customer shall maintain adequate protection against invasive programs as well as adequate back-up security copies of all software, operating systems and data files.

7. LIABILITY

- 7.1 The following provisions set out OPAL's entire liability (including any liability for the acts and omissions of its employees agents and sub-contractors) to the Customer in respect of the following which for the purposes of this clause shall be referred to as "Events of Default":
 - 7.1.1 any breach of its contractual obligations arising under the Contract; and
 - 7.1.2 any representation (except fraudulent) statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 7.2 OPAL's liability to the Customer for death or injury resulting from its own or its employees', agents' or sub-contractors' negligence or fraudulent misrepresentation shall not be limited.
- 7.3 Subject to the provisions of clause 7.2 above, OPAL's entire liability in respect of any Event of Default or series of Events of Default in any Year shall be limited to £500,000.
- 7.4 OPAL shall not be liable to the Customer in respect of:
 - 7.4.1 loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Customer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or OPAL had been advised of the possibility of the Customer incurring the same;
 - 7.4.2 any loss of or damage to data stored on the Customer's computer system;
 - 7.4.3 any loss arising as a result of any computer virus, logic bomb or other invasive program introduced to the Equipment.

8. FORCE MAJEURE

- 8.1 Notwithstanding anything contained in the Contract if OPAL shall be prevented or delayed whether directly or indirectly, in the performance of any of its obligations under the Contract by reason of any cause whatsoever beyond OPAL's control (including without limitation any prevention or delay caused by an act or omission of the Customer, industrial dispute or the unavailability of spare parts) and shall give notice thereof to the Customer specifying the period for which it is estimated that such prevention or delays will continue OPAL shall be excused from the performance of its obligations under the Contract from the date of such notice for so long as such prevention or delay shall continue.
- 8.2 If OPAL shall be prevented or delayed from performing its obligations under the Contract by reason of any act or omission of the Customer or its servants or agents the Customer shall pay to OPAL all reasonable costs, charges and losses sustained or incurred by OPAL as a result thereof.

9. DURATION AND TERMINATION

- 9.1 The Contract shall come into effect on the Effective Date shown overleaf and it shall continue thereafter unless and until terminated by:
 - 9.1.1 either party giving to the other at least 60 Working Days' prior written notice to terminate, such notice to expire at the end of a Year; or
- 9.2 The Contract may be determined forthwith without prejudice to any antecedent rights or liabilities hereunder, by OPAL giving written notice to the Customer in the event that:
 - 9.2.1 The Customer shall commit any breach of the terms of the Contract and shall fail within 30 days notice of requiring it to do so to remedy the breach (if capable of remedy); or
 - 9.2.2 The Customer shall suffer an Insolvency Event.
- 9.3 Upon termination of the Contract for any reason OPAL shall be entitled to enter any premises of the Customer and to recover any equipment and materials which are the property of OPAL and the Customer hereby irrevocably licenses OPAL, its employees and agents to enter into any such premises for that purpose.
- 9.4 Any termination of the Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party.

10. ASSIGNMENT

- 10.1 The Customer shall not assign or otherwise transfer the Contract or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of OPAL.
- 10.2 OPAL shall be entitled to sub-contract any of its obligations under the Contract.

11. JURISDICTION

The Contract shall be construed in all aspects in accordance with the laws of England, and the parties submit to the non exclusive jurisdiction of the English courts.

12. NOTICE

- 12.1 Any notice required to be given by either party to the other shall be in writing and may be given by hand sent by first class prepaid letter post, facsimile transmission or any comparable means of communication to the other party at the address stated overleaf or such other address as may be subsequently notified to the other party.
- 12.2 Any notice will be deemed to have been received if by hand upon delivery, if by post three days after posting and if by any instantaneous method of transmissions upon being sent.

13. TECHNICAL SUPPORT SERVICE

- 13.1 OPAL will provide a Technical Support Service during Normal Business Hours in relation only to the use and operation of the items described in the Contract and the Service shall comprise assistance by telephone only to resolve technical questions and will assist in 'second level' problem determination, problem source identification and problem management to resolution.
- 13.2 The Technical Support Service does not extend to the free supply of additional items such as software upgrades, or to operator training, specific consultancy on application, systems design, capacity planning and/or performance tuning or any work which would necessitate a visit to the Site. Any charges due to changes in the hours of coverage, delivery of on-site assistance or as a result of changes to the terms of the Technical Support Service provided under the Contract will be invoiced separately and payment shall become due on receipt of OPAL's invoice.
- 13.3 OPAL Service Reception staff shall pass on details of each support call to a qualified specialist for a first response. At peak times and with questions of a complex nature, it may be necessary to queue calls. In this event, the specialist will aim to call the Customer back within four Normal Business Hours of the initial call for a first response.

14. GENERAL

- 14.1 The Contract is valid only if signed by an authorised OPAL representative.
- 14.2 OPAL's employees and agents are not authorised to make any oral representations concerning the subject of the Contract. OPAL accepts no responsibility for any representation (except fraudulent) which has not been confirmed in writing by an OPAL director from time to time.
- 14.3 Unless deemed necessary by OPAL, the Maintenance Service shall include at least one scheduled Site visit for equipment preventive maintenance purposes in relation to the items listed in the Contract. Additional visits may be necessary to maintain the Equipment operational, the frequency of such visits will be at the discretion of OPAL. The Customer will make every endeavour to ensure the Engineer has full access to the Equipment for such maintenance visits.
- 14.4 The agreed annual charges for any additional items which the Customer requests and which OPAL agrees to be added to the Contract shall be invoiced on a pro-rata basis for the period beginning on the date on which the service is to commence for such items and ending on the next anniversary of the Effective Date of the Contract. The terms and conditions in the Contract shall apply to any such additional items.
- 14.5 No waiver by OPAL of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.6 If any provision of these 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 Conditions and the remainder of the provision in question shall not be affected thereby.
- 14.7 The Contract shall be governed by the laws of England and the parties submit to the non-exclusive jurisdiction of the English courts.



Logging a support call -

Helpdesk hours run from 9.00am to 5.30pm Monday - Friday excluding Public Holidays.

Calls may be logged by the following means:

1. Call the helpdesk on 0330 22 33 011
2. Send an email request to support@opal-it.co.uk

It is important to give clear details of the issue you are having;

- Your company name and contact details.
- The product you are experiencing issues with.
- The serial number if applicable
- Details of the issue and any steps (if any) that have been taken to resolve the issue.

Our CRM includes live engineer updates to keep you right up to date with the current process of your support ticket. If you supply a valid email address during the call logging process our system will email you out details on how to access this.

During the helpdesk hours, your call should be responded to within your contracted SLA agreement. A first line support engineer will be allocated during this period to gather further information and escalate to a suitable specialist. During this process they can offer quick fixes for any simple issues encountered.

If first line support is unable to reach a resolution the call will be escalated to either a suitable 2nd line application specialist or directly with the manufacturers support department.

In the event of an out-of-hours issue, the call may be logged via email and will be picked up the following working day by the helpdesk.

If you feel that the progress of an issue is reaching a system critical situation and requires urgent attention, please contact the helpdesk on the above number and they will endeavor to escalate the issue and inform the relevant support manager.

Thank You

