

DSI IT Services Ltd – Standard Terms and Conditions

1. Definitions

1.1 In any agreement unless the context otherwise requires:

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| <i>"Additional Charges"</i> | means | Subject to any provisions contained in any contract or quotation the charges are to be calculated by the Company on a time and materials basis according to the current prices listed on page 5 in respect of the provision of Additionally Chargeable Services. |
| <i>"Agreement"</i> | means | Any contract or invoice presented to the customer, whether verbal, e-mailed or hard-copy |
| <i>"The Company"</i> | means | DSI IT Services Ltd or any subsidiary organisation of DSI IT Services Ltd |
| <i>"The Customer"</i> | means | Demand Media |
| <i>"Equipment"</i> | means | The computer hardware and software itemised in any contract or invoice and any other equipment approved in writing by the Company |
| <i>"Additionally Chargeable Services"</i> | Means | Those services referred to in Clause 6 below which do not fall within the Standard Support Services. |
| <i>"Information System"</i> | means | The Equipment and the Software |
| <i>"Site"</i> | means | Those parts of the Customer's premises where the Information System is installed and operated, or other premises approved in writing by the company after the date hereof |
| <i>"Software"</i> | means | The Software itemised in and contract or invoice and any other software approved in writing by the Company |
| <i>"Support Charges"</i> | means | The charges set out in any contract, quotation or invoice |
| <i>"Support Services"</i> | means | The provision of Support Services as defined in Clause 4 below |
| <i>"Support Times"</i> | means | Between the hours of 9.00am and 5.30pm Monday through Friday (excluding bank and other public holidays) |
| <i>"Initial Duration"</i> | means | One year from the date indicated on the signature page |

2. Company's Undertaking

2.1 In consideration of the payment by the Customer from time to time of Support Charges and Additional Charges in accordance with the provisions of Clause 3 below, the Company undertakes to provide, Equipment, Support Services and the Additionally Chargeable Services based on the standard terms and conditions of the Company.

3. Charges

3.1 The Charges shall include any travel, accommodation and subsistence expenses of the Company's employees (including the cost of time spent traveling) incurred in the provision of the Support Services at the Site, unless pre approved by the customer.

3.2 The Charges shall not include the cost of any Additionally Chargeable Services.

3.3 The Charges shall not include any equipment or software not comprising the Information System.

3.4 The Charges shall be payable by the Customer in accordance with the credit account status of the Customer, where not specified this shall be deemed to be Cash On Delivery.

3.5 The Company reserves the right to charge the Customer interest in respect of the late payment of any Charges or Additional Charges due under any contract or invoice (as well after as before judgement) at the rate of 4 per cent per annum above the base rate of Barclays Bank plc from the due date until payment is received.

3.6 The company retains ownership of all supplied items until satisfactory settlement of any charges. In the event of a failure by the customer to settle outstanding amounts within a total of 90 days from the date of invoice, the Company reserves the right to collect unpaid items from the Site, or items to the value of the outstanding amounts, where payments for services which are deemed unrecoverable are outstanding.

3.7 The company reserves the right, with customer agreement, to install evaluation or OEM software with licensing of said software to remain the responsibility of the Customer, unless, in accordance with clause 7.1.9, the Company is specifically requested to supply the licenses for the software in the course of any agreement.

4. General Support Services

4.1 General Support Services shall comprise the provision by the Company of Off Site Support and On Site Support (as respectively defined in Clauses 4.2 and 4.3 below)

4.2 Off Site Support shall comprise the provision to the Customer of a user help desk during the Support Times comprising support either by telephone, e-mail, fax, or remote access where appropriate.

4.2.1 The Company shall respond to any request for Support within one hour during the support times.

4.3 On Site Support shall comprise the provision by the Company of an engineer to attend site.

4.3.1 The Company will respond to a request for On Site Support outside the Specified Hours and Support Times within one hour during the support times of receipt of the request

5. Helpdesk Support Service

- 5.1 The Helpdesk Support Service will comprise of a single point of contact at the company, within the support times, for all software related issues for each part of the information system that the service applies to.
- 5.2 Remote access software shall be installed on each relevant part of the information system the service applies to, to allow the remote support of the information system.
- 5.3 In the event that remote access is not available to the information system the helpdesk technician will then advise on restoring the internet connection to allow remote access to take place on a best endeavours basis.
- 5.4 The Company accepts no responsibility for the viability of internet access and therefore no liability to give support in the event that there is no remote support available.
- 5.5 In the event that the support call does not resolve the issue the customer will have the option of a site visit to assist further.
- 5.6 The Helpdesk Support service is subject to the provisions of the rest of the standard terms and conditions of the company.
- 5.7 The Company accept no liability for the loss of data, service or configuration information as a result of the helpdesk support service.
- 5.8 The Helpdesk Support service will be taken for a minimum term of one year, subject to the cancellation and termination clause 14.

6. Additionally Charged Services

- 6.1 The Company will have the right to levy additional charges for the following services:
- 6.1.1 The correction of any fault due to:
- 6.1.1.1 The Customer's failure to maintain a suitable environment for the Information System in accordance with the manufacturer's written specifications therefore including without limitation, failure to maintain a constant power supply, air conditioning or humidity control.
- 6.1.1.2 The Customer's neglect or misuse of the Information System or its failure to operate the Information System in accordance with the manufacturer's instruction manuals or the Companies direction, or for the purposes for which it was designed.
- 6.1.1.3 The use of defective or inappropriate supplies on the Information System.
- 6.1.1.4 Any accident or disaster affecting the Information System including without limitation fire, flood, water, wind, lightning, transportation, vandalism or burglary.
- 6.1.1.5 The Customer's failure, inability or refusal to afford the Company's personnel proper access to the Information System.
- 6.1.1.6 Malicious Damage, Electrical works, Power supply issues, hacking, updates or any other circumstances external to the Information System or outside the reasonable control of the Company.
- 6.1.1.7 Any work carried out by the Company outside the Support Times unless volunteered by the Company or otherwise agreed to by the Company.
- 6.1.2 The maintenance of any equipment or software not comprising the specified Information System.
- 6.1.3 The provision of supplies for use in association with the Information System including without limitation printer cartridges, plates, power rolls or feed rolls.
- 6.2 Additional Charges shall be levied by the Company by invoice and shall be settled in accordance with the credit account status of the Customer, where not specified this shall be deemed to be Cash On Delivery.
- 6.3 Additional chargeable works shall be charged at the prices indicated on page 5.
- 6.4 The Company shall make all reasonable endeavors to supply a quotation for any additional charges, save where such delay would constitute a risk the Customers information system. Where prior authorization has not been obtained, the Company will advise the Customer as soon as practical.

7. Customer's Obligations

- 7.1 The Customer undertakes to the Company throughout the term of any agreement:
- 7.1.1 To grant the Company such access to the Site as the Company shall from time to time reasonably require in order to discharge its obligations.
- 7.1.2 To make available at the Site such facilities as the Company shall reasonably require in order to discharge its obligations hereunder including without limitation adequate work space storage and office furniture and equipment.
- 7.1.3 To take all reasonable precautions to protect the health and safety of the Company's employees, agents and sub-contractors while on the Site.
- 7.1.4 To make available the Information System and supply all documentation and other information necessary for the Company to diagnose and rectify any fault in the Information System.
- 7.1.5 To pay any Additional Charges due, at the rates indicated on page 5.
- 7.1.6 To inform the Company in advance of proposed changes to the information system covered by the contract, where such changes could impact on the company's ability to deliver the services specified in the contract.
- 7.1.7 To give the Company access to the Site and the Information System to discharge a collection under clause 3.6.
- 7.1.8 To accept responsibility for the provision of suitable licensing for software unless the Company is requested to supply licenses as part of any agreement.
- 7.1.9 To work with the Company to assist in the resolution of critical issues including without limitation catastrophic failures, virus infections.

8. Company's Warranty

- 8.1 The Company warrants and undertakes to the Customer:
- 8.1.1 To perform the Support Services and any Additionally Chargeable Services with reasonable care and skill.
- 8.1.2 To perform any Additionally Chargeable Services within a reasonable time of being so requested by the Customer.
- 8.1.3 That it shall have a free and unencumbered title to any replacement parts for the Equipment supplied hereunder.
- 8.1.4 That the Customer will enjoy quiet possession of any such replacement parts and that the same will be of merchantable quality and reasonably fit for their purpose.
- 8.2 The Company does not warrant that the Support Services and any Additionally Chargeable Services will cause the Information System to operate without interruption or error.
- 8.3 Except as otherwise set forth otherwise in any agreement, all conditions, warranties, terms and undertakings; express or implied; statutory or otherwise in respect of the performance by the Company of the Support Services and any Additionally Chargeable Services hereunder are hereby excluded.

9. Limitation Of Liability

- 9.1 The following provisions set out the Company's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Customer in respect of:
- 9.1.1 Any breach of its contractual obligations arising under any agreement.
- 9.1.2 Any representation, statement or tortious act or omission including negligence arising under or in connection with any agreement. The customer's attention is in particular drawn to the provisions of this clause 9.

9.2 Any act or omission on the part of the Company or its employees, agents or sub-contractors falling within Clause 8.1 above shall for the purposes of this Clause 8 be known as an 'Event of Default'.

9.3 The Company's liability to the Customer for:

9.3.1 Death or injury resulting from its own or that of its employees', agents' or sub-contractors' negligence.

9.3.2 All damage suffered by the Customer as a result of any breach by the Company of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982 shall not be limited.

9.4 Subject to the limits set out in clause 9.5.1 below the Company shall accept liability to the Customer in respect of damage to the tangible property of the Customer resulting from the negligence of the Company or its employees, agents or sub-contractors.

9.5 Subject to the provisions of clause 9.3 above, the Company's entire liability in respect of any Event of Default shall be limited to:

9.5.1 £100,000.00 in the case of an Event of Default falling within clause 9.4 above; and

9.5.2 In the case of any other Event of Default damages of an amount equal to the aggregate of the Support Charges and the Additional Charges for the 12 Months immediately preceding the date of the Event of Default.

9.6 Subject to Clause 9.3 above the Company shall not be liable to the Customer in respect of any Event of Default for 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 the Company had been advised of the possibility of the Customer incurring the same.

9.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under any agreement.

9.8 The Customer hereby agrees to afford the Company notice in writing and not less than five working days in which to remedy any Event of Default hereunder.

9.9 Except in the case of an Event of Default arising under Clause 9.3 above the Company shall have no liability to the Customer in respect of any Event of Default unless the Customer shall have served notice of the same upon the Company within two months of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.

9.10 Nothing in this Clause 9 shall confer any right or remedy upon the Customer to which it would not otherwise be entitled.

9.11 For the avoidance of doubt the Company shall not be liable to the Customer in any way whatsoever for any loss whatsoever sustained by the Customer arising from any failure of the Information System caused by any external influences beyond the control of the Company.

10. Customer's Warranty

10.1 The Customer warrants and undertakes to the Company that it is the owner of the Information System and that it has full power and authority to enter into any agreement and permit the Company to perform the Support Services and any Additional Services.

10.2 The Customer undertakes to indemnify and hold harmless the Company against any loss or damage that the Company may suffer as a result of a breach by the Customer of Clause 10.1 above.

11. Replacement Of Parts

11.1 Subject always to the warranty set out in Clause 8.1.4 above the Company reserves the right to supply new, second-hand, or reconditioned, replacement parts in the performance of its duties hereunder.

11.2 Any parts of the Information System replaced by the Company pursuant to Clause 11.1 above ('Replaced Parts') shall upon their removal become the property of the Company and the Customer warrants that either it shall have a free and unencumbered title to such Replaced Parts or (where the Equipment is leased or charged) that it shall have obtained all necessary consents and authorities to part with possession and give good title to the Replaced Parts.

12. Duration Of Agreements

12.1 All contracts are for a minimum duration of 12 months from the commencement date.

12.2 This contract shall automatically convert to a monthly rolling agreement until terminated in accordance with clause 14 below.

13. Customer's Representatives

13.1 The Customer shall communicate to the Company upon the date hereof the identity of the person(s) or the department within its undertaking at the Site who shall act as the sole contact point and channel of communication for the provision by the Company for the Support Services during the currency of any agreement.

13.2 The Customer shall forthwith inform the Company of any change in the identity of any such person(s) or department.

14. Termination

14.1 Agreements may be terminated:

14.1.1 By either party upon giving not less than one months notice, in writing, to the other to expire no earlier than the 1st anniversary of the contract.

14.1.2 Forthwith by the Company if the Customer fails to pay the Support Charges or any Additional Charges due hereunder within thirty days of the due date therefore.

14.1.3 Forthwith by either party if the other commits any material breach of any term of any agreement (other than one falling within 14.1.2 above) and which (in the case of a breach capable of being remedied) shall not have been remedied within thirty days of a written request by the other party to remedy the same.

14.1.4 Forthwith by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

14.1.5 There shall be a review at the end of the first six months of the first annual period and either party shall have the right to terminate with one months notice.

14.2 Any termination of any agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

14.3 If the Company terminates pursuant to Clause 14.1.2 then subject to Clause 14.2 it shall repay to the Customer the Support Charges pro rata to the unexpired period less any reasonable costs incurred by the Company on insurance, collection, delivery, final settlement of outstanding accounts, interest accrued and any other disbursements.

15. General

15.1 After the Anniversary Date of any contract, or after the expiry date of any quotation, and by notice in writing to the Customer the Company may increase the Support Charges and the Additional Charges with effect from the relevant Dates, in accordance with the companies pricing policy at that time.

15.2 The Customer has the right to terminate the agreement, in accordance with clause 14, in the event that the Customer does not accept the price increases

15.3 Acceptance of any quotation, contract or invoice, whether verbally, electronically, physically or in writing, shall be deemed acceptance of these terms and conditions.

16. Confidentiality

16.1 Each of the parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received during the course of any agreement or as a result of the discussions leading up to or the entering into of any agreement save that which is:

16.1.1 Trivial or obvious.

16.1.2 Already in its possession other than as a result of a breach of this clause.

16.1.3 In the public domain other than as a result of a breach of this clause.

16.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of Clause 16.1 by its employees, agents and sub-contractors.

17. Force Majeure

17.1 Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees), insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies and raw materials, requirements or regulations of any civil or military authority (an 'Event of Force Majeure').

17.2 Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

17.3 If a default due to an Event of Force Majeure shall continue for more than six weeks then the party not in default shall be entitled to terminate any agreement. Neither party shall have any liability to the other during the period of Force Majeure (though the party suffering the Force Majeure shall be obligated to use its best efforts to overcome it) nor in respect of the termination of any agreement as a result of an Event of Force Majeure.

18. Waiver

18.1 The waiver by either party of a breach or default of any of the provisions of any agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omissions on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach of default by the other party.

19. Notices

19.1 Any notice, request, instruction, or other document, to be given hereunder shall be delivered or sent by first class post to the address of the Customer (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served, if delivered, at the time of delivery (if sent by post) upon the expiration of 48 hours after posting.

20. Invalidity And Severability

20.1 Any provision of any agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provisions shall not affect the other provisions of that agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

21. Entire Agreements

21.1 The Company shall not be liable to the Customer for additional costs, loss or damage arising from or in connection with any representations, agreements, statements, or undertakings, made prior to the date of execution of any agreement other than those representations, agreements, statements and undertakings, confirmed by a duly authorised representative of the other party in writing or expressly incorporated or referred to in that agreement.

22. Successors

22.1 Any agreement shall be binding upon and endure for the benefit of the successors in title of the parties hereto.

23. Non-Solicitation

23.1 Neither party during the term of any agreement and for a period of 12 months after expiry or termination howsoever shall solicit the other party's staff who have been employed or engaged in the provision of the Services or the performance of any agreement without the express written consent of the other party. For the purposes of this clause 'solicit' means the soliciting of such person with a view to engaging such person as an employee, director, sub-contractor, or independent contractor.

23.2 In the event that either party is in breach of clause 23.1 above then the party in breach shall pay to the other by way of liquidated damages an amount equal to ten times the gross annual salary (as at the time of the breach) of the person so employed or engaged. This provision shall be without prejudice to either party's ability to seek injunctive relief.

23.3 The parties hereby acknowledge and agree that the formula specified in clause 23.1 above is a reasonable estimation of the loss which would be incurred by the loss of the person so employed or engaged.

24. Assignment

24.1 Neither party shall be entitled to assign any agreement nor all or any of their rights and obligations hereunder without the prior consent of the other.

24.2 Such consent shall not be unreasonably withheld by either party

25. VAT

25.1 Save insofar as otherwise expressly provided all amounts stated in any agreement are expressed exclusive of valued added tax and any value added tax arising in respect of any supply made hereunder shall on the issue of a valid tax invoice in respect of the same be paid to the party making such supply by the party to whom it is made in addition to any other consideration payable therefore.

26. Headings

26.1 Headings to clauses in any agreement are for the purpose of information and identification only and shall not be construed as forming part of that agreement.

27. Law

27.1 Any agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non-exclusive jurisdiction of the English courts.