

## 1. Services

**1.1** We shall provide you with the Services and/or the Equipment subject to the terms of this Agreement.

**1.2** We shall not be obliged to provide the Services and/or Equipment to you unless and until;

(a) We have sent written notice to you (either by post, fax or e-mail) of our acceptance of the Customer Application; and

(b) We have received any initial Charges due from you in respect of the Services and/or Equipment.

Acceptance of the services and/or Equipment by you constitutes your automatic acceptance of the terms and conditions of this agreement.

**1.3** We will provide you with transit and routing services for e-mail and general Internet access. We will (in consideration of the Charges) deliver IP packets to the Customer network boundary only and will not be, or be held responsible for, the transit, routing and delivery of IP packets to individual workstations on the Customer network.

**1.4** We will endeavour to ensure that the Services are of a high quality. In order to maintain the quality and safety of the services, and any other services which we provide to our customers, we may from time to time:

(a) Suspend, close down or restrict the whole or any part of the Services in order to carry out emergency or other repairs, maintenance and/or improvements or to prevent overload of the network or to preserve the safety, security or integrity of the Services and any Internet traffic conveyed (although we will give you as much notice as is reasonably practicable before doing so and will endeavour to carry out such works during the relevant scheduled maintenance periods as published by us); and/or

(b) Give you instructions on how to use the Services. You agree to comply with any instructions we may give you in accordance with this Clause.

**1.5** We will notify you as soon as possible if either we or our agents, employees, representatives or anyone else involved in providing the Services and/or the Equipment, require access to your premises, to install the Services and/or the Equipment or to carry out repairs, maintenance or upgrades. Where such notice is received by you, you agree to grant us and/or such other persons referred to, access to your premises. We will meet your reasonable requirements, and you agree to meet ours, concerning the safety of people on your premises.

**1.6** We may make software available to you that enables you to use the Services. This software must not be copied or modified by you or anyone else unless allowed by Law. You undertake and agree that you will access the Services only via use of this software, or in an alternative way permitted by us, and you will not attempt to circumvent any security measures inherent in the Services. Where such software is owned by or licensed to us, we will, where possible, grant you a revocable, non-transferable, non-assignable, non-exclusive license to use it for the duration of the Agreement (or, if shorter the duration of any licence of the software to us). Where the use of such software by you requires you to enter a separate licence you agree to do so.

## 2. Contract Duration

**2.1** We will activate the Services, as soon as possible following completion of the matters referred to in Clause 1.2 above.

**2.2** Services shall be provided for a Minimum Service Period of 12 months from the date of activation except where terminated or suspended in accordance with this Agreement.

**2.3** On expiry of the periods referred to at Clause 2.2 above the services will, unless terminated on or before the date of such expiry, automatically renew until terminated pursuant to this Agreement.

## 3. Changes

**3.1** We aim to provide the Services for the relevant Service Period. However, we may have to modify, suspend, vary or discontinue the whole or any part of the Services (including, without limitation, any codes or access details or technical specifications associated with the services) and will endeavour to give you as much notice as is reasonably practicable if we need to do so.

**3.2** We may have to change the terms and conditions of the Agreement. Where this is necessary we will publish details of all changes on <http://www.in2it.co.uk>.

**3.3** We will endeavour to let you know about any change referred to in Clause 3.2 at least 14 days before it happens. However, if we need to make changes, as soon as possible, for regulatory, technical or legal reasons, we may be unable to meet that timescale. In those circumstances, we will let you know about any changes as soon as we can.

**3.4** If we have made a change to your significant disadvantage and you decide to terminate this Agreement early, you will not have to pay charges in relation to the Services, for the remainder of the Minimum Cancellation Notice Period.

## 4. CONDITIONS OF USE

**4.1** You agree that you will promptly provide us with all information that we may reasonably require in order to provide the Services and perform all of our other obligations under this agreement.

**4.2** You agree that you will be responsible for all use of the Services and (unless, we have agreed to supply it as part of the Equipment) for providing a computer, modem, and all additional equipment and/or services (including, without limitation, a telephone line, if required), and for obtaining any permits and/or licences which are necessary for connecting to, and accessing, the Services. You agree that you are responsible for complying with all terms and conditions (including, without limitation, terms of payment) relating to any telecommunications service which is required by you to access the Services.

**4.3** You are responsible for ensuring that the Services and/or Equipment are used in accordance with the Agreement. If you breach the Agreement we may, in our sole discretion, either:

- (a) Suspend or terminate this Agreement and/or any of the Services without notice or refund;
- (b) Make an additional charge; or
- (c) Block access to any part of the Services.

**4.4** If, while using the Services, you discover that another person is using the Services, and failing to do so in accordance with the Agreement, you must inform us immediately.

**4.5** You agree that you will, at all times and for whatever purpose, use the Services and/or the equipment in compliance with all Laws.

**4.6** In addition to Clause 4.5, you agree that you will not use, and will take all necessary precautions to ensure that nobody else uses, the Services and/or the Equipment:

- (a) Fraudulently or in connection with any criminal offence;
- (b) To send, knowingly receive, upload, download, or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;
- (c) To cause annoyance, inconvenience or anxiety;
- (d) To "spam" or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party;
- (e) In any way which, in our opinion, is or is likely to be detrimental to the provision of services to you or any of our customers, or to our business and/or reputation;
- (f) In contravention of any licences or third party rights, or in contravention of our Acceptable Use Policies; or
- (g) In a way that does not comply with any instructions provided to you;

**4.7** You may use the Services to link to other networks world-wide, provided that you comply, at all times, with any policies and/or terms and conditions imposed by the operators of such other networks.

**4.8** You agree that you will not perform or allow anyone else to perform any unauthorised IP or Port multicasting, spoofing, broadcasting, vectoring, filtering translation or routing.

**4.9** You agree to:

- (a) Keep any records of your User Name(s) and/or Password(s) in separate places and take all necessary steps to ensure their security;
- (b) Keep your User Name(s) and/or Password(s) private and confidential and ensure, at all times, that it (or they) do not become known to anyone else.

**4.10** You agree that you will notify us immediately if you become aware of any change in circumstances which may lead you to believe that your User Name(s) and/or Password(s) have become known to anyone else.

**4.11** You agree that we may, from time to time, and, where possible, on giving you reasonable notice, suspend and/or change your User Name(s) and/or Password(s). You also agree that you will not change or attempt to change your User Name at any time.

**4.12** Any managed hardware, and/or routers, which you purchase from us, will be tested by us and configured to meet your basic network and Internet specifications. We cannot support any alterations to the configuration of such equipment and any such alterations will invalidate our support obligation (if any) relating to such Equipment.

**4.13** Title to any Equipment, which we have agreed to sell to you will remain with us unless and until you have paid all sums due to us in respect of such Equipment.

**4.14** Any fault with the Services and/or the Equipment, which you detect must be reported to us as soon as possible either:-

- (a) By telephone on 0845 643 1182;
- (b) By e-mail sent to us at: support@in2it.co.uk
- (c) To such other telephone number or email address or at such other Web site as we may notify to you from time to time for this purpose.

**4.15** You agree that we may, at any time, scan any IP addresses allocated to you for anything which may affect the security of the Services (including open relays and/or open proxies or equivalent).

**4.16** If, as part of the Services, you are provided with Web space to enable you to upload your own Web sites:

- (a) You are responsible for (and will hold us harmless against) any and all costs, claims, losses, expenses, damages, awards, proceedings, demands and other liabilities (howsoever arising) in connection with any material that either you or anyone else puts on your Web site(s); and
- (b) Your contact details must be clearly visible on your Web site(s) and updated as soon as possible after any change

**4.17** You agree that all static IP addresses are allocated to you on a rental only basis and will remain our property at all times.

## **5. CHARGES**

**5.1** Except as otherwise provided in the Agreement, all Charges and other sums due from you in respect of the Services and/or Equipment shall be set out in the Price List and/or the Customer Application and/or the invoice relating to such equipment and/or Services.

**5.2** You shall pay the Charges (without any set off or deduction of any kind) on either a monthly, quarterly or annual basis as stated in the Customer Application and/or the Price List and/or the invoice referred to at Clause 5.1 above.

**5.3** All amounts payable by you in accordance with the Agreement shall be exclusive of Value Added Tax ("VAT"), or any other applicable tax or duty, which shall be payable in addition to all such amounts due from you.

**5.4** Where you are a Business User, with a 30 day credit account, we will send you a VAT invoice following completion of the provision of the Services. Where you are a Business User with no credit facility, we will send you a VAT receipt following receipt by us of your payment. Where you are not a Business User, a payment receipt will be sent to you upon your written request.

**5.5** You agree that you will notify us as soon as possible of any change in your credit/debit card or bank account details. Should you terminate the Services in accordance with this Agreement, it is your responsibility to terminate any standing order with your bank.

**5.6** If you use the Services and/or Equipment otherwise than in the course of a business, trade, profession or occupation, we may increase the amount payable by you for Services and/or Equipment by giving you one month's notice in writing. If you are a Business User, we may increase the amount payable by you for any Services and/or equipment by giving you 14 days notice in writing.

## **6. LIABILITY**

**6.1** You agree that, in view of their nature, your use of the Services is at your sole risk. Whilst we will endeavour to ensure that the Services are of a high quality, neither we nor any of our agents, contractors, licensees, employees or information providers involved in providing the Services, give any guarantee that the Services will be uninterrupted or free from error. Where necessary for commercial, technical or other reasons:

(a) A network or service provider connected to the Services may suspend or terminate its connection to the Services; and

(b) The Services may suspend or terminate their connection to another network or service provider.

**6.2** You agree that any such suspension or termination referred to above will not constitute a breach by us of the Agreement and that the Services are provided on an "as is" basis without guarantee of any kind.

**6.3** You further agree that we will not be held liable for any costs, expenses, losses, damages or other liabilities (howsoever arising) which you may incur as a result of a suspension of the Services in accordance with Clause 1.4(a) above.

**6.4** You acknowledge that the Internet is separate from the Services and that use of the Internet is at your own risk and subject to any applicable Laws. We have no responsibility for any goods, services, information, software, or other materials which you may obtain from a third party when using the Internet.

**6.5** You also acknowledge that we may exercise editorial control over the content of our servers, but that we do not have the resources to ensure, nor are we capable of checking, the full content of our servers at all times. Neither we, nor any of our agents, contractors, licensees, employees and information providers, involved in providing the Services, are able to control the content of the Internet. You, therefore, agree that we shall not be held responsible for the publication, transmission or reception of any defamatory material or information of any kind, other than information which is inserted by us. You specifically acknowledge that we have given no warranties as to the quality, content or accuracy of information received through, or as a result of the use of, the Services.

**6.6** You agree and acknowledge:

(a) That you are in a better position than us to foresee and evaluate any potential damage or loss which you may suffer in connection with the Equipment and/or the Services and/or any other service provided to you under the Agreement;

(b) That we cannot adequately insure our potential liability to you; and

(c) That the sums payable by you under the Agreement have been calculated on the basis that we shall exclude liability in accordance with the Agreement.

**6.7** In no circumstances whatsoever will we be liable to you (whether in contract, or for breach of duty, or negligence or otherwise) for any indirect, incidental or special loss or damage or any loss of business or of contracts, profit, opportunity, goodwill, reputation, or anticipated savings, or for any loss or corruption of data which arises out of or in connection with any use of, or inability to use, the Services and/or the Equipment.

**6.8** In any event:

(a) Our liability to you for any failure of the Services or other event in any Minimum Cancellation Notice Period shall not exceed the Charges payable in respect of such Minimum Cancellation Notice Period.

(b) Our aggregate liability to you of any sort (including for breach of contract and negligence) in connection with this Agreement shall not exceed the amount of Charges paid by you to us in accordance with this Agreement.

**6.9** Nothing in this Agreement will limit our liability under Part I of the Consumer Protection Act 1987 or for death or personal injury caused by our negligence.

## **7. YOUR RESPONSIBILITIES**

**7.1** You agree that you will be responsible for and hold us and our agents, contractors, licensees, employees and information providers, involved in providing the Services and/or Equipment, harmless from and against any and all losses, claims, damages, costs, demands, expenses and other liabilities which we suffer as a result of any breach by you of the terms of this Agreement, and from and against any claim brought by a third party alleging that the use of the Services and/or the Equipment, by you or under your Account, has infringed any intellectual property or other right of any kind, or any applicable legislation or regulation (whether international or domestic) but excluding any liability which we face as a result of criminal prosecution.

**7.2** You agree to pay all costs, damages, awards, fees (including legal fees), judgements and other sums awarded against, or agreed to be paid by, us in relation to such claims referred to at Clause 7.1 above. You further agree that you will, as soon as possible, notify us of, and forward to us all correspondence received by you in relation to, such claims.

**7.3** You also agree that we shall have full authority to defend, compromise or settle such claims referred to at Clause 7.2 above, and that you will, at your expense, provide us with all reasonable assistance necessary to defend such claims.

**7.4** You agree that you are entirely responsible for any form of automated dialling system which you have set up (including, but not limited to, the reliability of such system and any call costs which may be incurred as a result of its use).

**7.5** You agree that the configuration of your internal network remains your responsibility. Any interruption to the Services resulting from such configuration shall not be regarded as an interruption in or suspension of the provision by us of the Services.

**7.6** You agree that any equipment connected to or used with the Services will bear the European Consumer Equipment Standards "CE" mark. You will be responsible for ensuring that all such equipment is technically compatible with the Services and is used in compliance with all relevant instructions and safety and security procedures.

## **8. SUSPENSION AND TERMINATION**

**8.1** You agree that we may suspend or terminate the Services and/or your Account and/or terminate the Agreement at any time, without prior notice or refund to you, and without affecting any of our accrued rights or claims, either:

(a) Where we reasonably believe that the Services are being used in breach of Clauses 4.5, 4.6 or 4.9;

(b) For non-payment (when due) of the Charges or any other sum due from you under the Agreement or any other agreement with us;

(c) For any other material breach of the Agreement by you;

(d) Where you have breached the Agreement in any other way on three or more occasions; or

(e) Where you are or you become Insolvent or suffer any distress or execution or other legal process to be levied or enforced or sued upon or against any part of your property, assets or revenue and which is not discharged or stayed within 7 days, or you cease or threaten to cease to carry on business. You also agree that where this Agreement or your Account is terminated for any reason the Services will automatically terminate.

(f) Where, at any time, an agreed method of payment is unavailable for collection under this agreement.

**8.2** If your communications network does not conform to the standards set out in Clause 4.6, to either our or any of our other customers' detriment we may, without prejudice to our other rights under Clauses 4.3 and 8.1, suspend your access to the Services until you have given a suitable undertaking as to use.

**8.3** You acknowledge and agree that our resources, used in providing the Services, are limited and that any reckless or wasteful use of the Services by you may affect those resources and the services provided to our other customers. You agree that we may suspend or terminate your access to the Services where we decide, acting reasonably, that you are using the Services in a reckless or wasteful manner.

**8.4** You agree that, notwithstanding the provisions of Clauses 2 and 8.1 (but without affecting our other rights to terminate under this Agreement), we may terminate all or any of the Services at any time, on 14 days notice, and on repayment to you of a proportion of the Charges which reflects the period agreed for provision of the Service(s) which has yet to expire at the point of termination. Any refund that is due to you, will be made by us following the cancellation of the Service(s), and will be made direct to your credit card or bank account (notified to us for this purpose) by BACS transfer. Should you fail to provide suitable bank or credit card details to allow a refund to be made, you will lose the right to such refund.

**8.5** Any suspension of the Services by us in accordance with this Agreement will not constitute a termination of the Agreement and we may require you to pay a reconnection fee to recommence the Services together with the relevant Charges.

**8.6** You may terminate all or any of the Services, at any time after the Minimum Service Period, subject to the Minimum Cancellation Notice Period. Should you wish to terminate a Service in accordance with this Clause, you must, give written notice to us in accordance with Clause 13.

Where you terminate within the Minimum Service Period you will be liable to pay the Charges due in respect of that Minimum Service Period.

**8.7** We may terminate all or any of the Services by notice equal to the Minimum Cancellation Notice Period (to expire at any time on or after the Minimum Service Period) without our incurring any liability.

**8.8** Unless otherwise stated in the Specific Terms and Conditions, the Minimum Cancellation Notice Period is 14 days (to expire at any time on or after the Minimum Service Period).

## 9. ASSIGNMENT

**9.1** We may transfer, assign or sub-contract the whole or any part of our rights and obligations under the Agreement. You agree that you will not assign, sub-contract, sell, transfer, lease, licence or charge by way of security any of your rights or obligations under the Agreement. Breach of this restriction in any way (whether successful or not), will result in your Account being terminated.

## 10. PERSONAL DATA

**10.1** You agree that both we and our employees may hold all names and other information in the Customer Application, in a computerised database. You agree that such data may be processed and may, in certain circumstances, be supplied to and processed by our suppliers, to enable the provision and maintenance of the Equipment and/or Services.

**10.2** If you request an IP assignment of eight or more real IP addresses we may add your contact details to the Reseaux IP Europeans (RIPE) database.

**10.3** You acknowledge that we may, from time to time, be required under regulations and/or legislation to co-operate with and/or disclose data to, government or other bodies and/or authorities.

## 11. FORCE MAJEURE

**11.1** You agree that we shall not be liable for any and all losses, (including loss of data) damages, costs, claims and other liabilities which arise as a result of any delay or interruption in, or any non delivery, or missed delivery or failure of the Equipment and/or Services due to circumstances beyond our or any of our suppliers' reasonable control (including, but not limited to, fire, lightning, explosion, war, disorder, flood, industrial dispute, sabotage, weather conditions or acts of local or central Government or other competent authorities).

**11.2** Should any event, referred to at Clause 11.1 above, continue for more than 90 days, then either we or you may terminate the Agreement forthwith.

## 12. WAIVER

**12.1** Neither failure nor delay by either you or us in exercising any of your or our rights under the Agreement shall amount to a waiver of any such right, or operate so as to bar the exercise or enforcement of such right at any time in the future.

## 13. NOTICES

**13.1** You agree to keep the contact details which you have provided to us up to date. Any notice or other information to be served by us on you in accordance with this Agreement will be validly sent if in writing and sent by either e-mail or first class post to your last known email or postal address. Any notice sent by first class post will be deemed served two days after posting. Any notice sent by email will be deemed served on the day that it is sent.

**13.2** Any notice to be served on us must be in writing and sent either by pre-paid first class post to our registered office or to such other address as may be specified by us to you for this purpose from time to time. Any notice sent in accordance with this sub-clause will only be deemed served if and when you have received a written acknowledgement from us.

## 14. GENERAL

**14.1** This Agreement represents the entire agreement and understanding between you and us with regard to the supply of the Equipment and/or Services, to the exclusion of all prior agreements, arrangements and understandings. The Agreement contains express promises and obligations on our part. You agree that any other term which might be implied or incorporated into the Agreement, by statute, at common law or otherwise, is excluded, to the fullest extent permitted by law.

**14.2** You acknowledge and agree that in entering into the Agreement you have not relied upon any oral or written representation, statement or understanding (whether negligently or innocently made) by any of our employees, agents, sub-contractors or representatives other than as expressly set out in the Agreement.

**14.3** You further acknowledge and agree that you will have no remedy in respect of any untrue representation innocently or negligently made by us or any of our employees, agents, subcontractors or representatives prior to entering into the Agreement upon which you may claim to have relied in entering into the Agreement whether such representation was made orally or in writing.

**14.4** The only remedy available to you for a breach by us of the Agreement shall be for breach of contract under the terms of the Agreement.

**14.5** Nothing in the Agreement shall exclude or limit our liability for fraudulent misrepresentation.

**14.6** The Agreement shall be governed by and construed in accordance with the laws of England and Wales and you agree to submit to the exclusive jurisdiction of the Courts of England and Wales. In the event that the Agreement is translated into any other language, the English language version shall prevail.

**14.7** If any provision, clause or sub-clause of the Agreement is held by any competent authority to be void, voidable, illegal, invalid or otherwise unenforceable, but would be valid and/or enforceable if any part of such provision, clause or sub-clause were deleted or modified, then that provision, clause or sub-clause shall apply with such deletion or modification as may be necessary to make it valid and/or enforceable.

**14.8** If any part of the Agreement or the application of it to any person shall, for any reason, be adjudged by a competent authority to be invalid, void, voidable, illegal or unenforceable such judgement shall not affect the remainder of the Agreement which shall continue in full force and effect.

**14.9** References to the singular include the plural and vice versa. References to one gender include all other genders and vice versa.

**14.10** A person who is not a party to the Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement, but this does not affect any right or remedy of any third party which exists or is available apart from that Act.