



Agreement to Purchase Software and Services

1. FORMATION OF CONTRACT

- 1.1. The Customer agrees to purchase and Onesys Group ('Onesys') agrees to supply the software and services set out overleaf or on the order form ('the System')
- 1.2. Onesys and the Customer are together 'the Parties'. This agreement together with any documents referenced within it sets out the entire agreement and understanding between the Parties in relation to the supply of the System and supersedes all prior agreements, understandings and arrangements whether verbal or written in respect of its subject matter
- 1.3. No waiver or amendment of any provision of this agreement is effective unless it is made in writing and signed by an authorised representative of each of the Parties
- 1.4. Onesys Group "Onesys Group Company" - means Onesys Limited, a company registered in England under number 2736089 and its current subsidiaries The Northern Path Limited, Elite Business Services Limited and I.S.M Business Solutions Limited. Onesys Support Limited 2687119 AIM Software Limited 2321807 and any other Affiliated company from time to time being any entity that directly or indirectly controls, is controlled by, or is under common control with any of the previously named companies

2. PRICE

- 2.1. Prices are quoted exclusive of Value Added Tax which will be added at the rate prevailing at the time of delivery
- 2.2. Where an element of the System is to be procured by Onesys from a third party supplier the price payable may be subject to change. Any such change will be notified to the Customer in advance of delivery and the price payable by the Customer will be the price prevailing at the date of delivery, unless the customer wishes to cancel the agreement due to this price increase.
- 2.3 The total price payable by the Customer for the System including Value Added Tax is the 'Order Value'

3. PAYMENT

- 3.1. Invoice and payment terms are 50% of Order Value with order, 40% of Order Value on the installation of the System and 10% of Order Value on acceptance of the System
- 3.2. If the Customer enters into a financing arrangement with a third party to whom it intends that title to any part of the System will pass the Customer shall continue to remain liable to Onesys for any unpaid element of the Order Value until the Order Value is paid in full
- 3.3. Onesys reserves the right to charge interest on any overdue balance at the rate of 2% per month
- 3.4. Without prejudice to any other legal rights and remedies it may have Onesys shall be entitled to treat this contract as repudiated by the Customer if any part of the Order Value remains outstanding 90 days after payment is due

4. TITLE AND RIGHTS OF OWNERSHIP

- 4.1. Hardware and software supplied under this agreement shall have the benefit of any applicable warranty offered by its manufacturer, author or owner
- 4.2. Title in hardware and software supplied under this agreement remains with Onesys until the Order Value is paid in full. In the interim the Customer holds such hardware and software on a fiduciary basis as Bailee and shall if requested separately identify hardware and physical media as the property of Onesys and if requested return such property to Onesys at its own expense
- 4.3. Intellectual property rights in each element of the software supplied (including bespoke) as part of the System remain with its respective owners whether this be Onesys or a third party. The Customer shall be a licensee of such software and shall enter into an End User Licence Agreement for each element of the software and be subject to the terms and conditions set out therein

5. DELIVERY

- 5.1. Unless otherwise expressly agreed in writing between the Parties time is not of the essence in this agreement. Onesys will use its best endeavours to deliver the System as set out in any timetable agreed with the Customer and in any case will commit to deliver the System to the Customer within a reasonable time having regard to all relevant circumstances. Onesys will advise the Customer of any material variation in the proposed timetable for the delivery of the System howsoever caused
- 5.2. Onesys shall not be liable for any failure to deliver any element of the System due to circumstances beyond its control including but not limited to *force majeure*, the inability of any third party to supply any element of the System as ordered by the Customer and any delays occasioned by the acts, errors or omissions of the Customer

6. INSTALLATION, IMPLEMENTATION AND ACCEPTANCE

- 6.1. The installation and implementation of the System shall proceed in accordance with an agreed implementation timetable and accepted by both parties, unless the customer has reason to change it for commercial reasons such change will not be unreasonably refused by the onesys. The provisions of 6.4 would still apply.
- 6.2. If hardware is supplied it is the responsibility of the Customer to ensure that environmental conditions and the electrical supply conform with the manufacturer's specification
- 6.3. On completion of the implementation of the System Onesys shall request acceptance by the Customer. The Customer shall within 14 days of such request either a) accept the System and pay the balance of the Order Value, or b) provide Onesys with a written Statement of Non-Compliance setting out reasonable grounds for withholding acceptance and providing sufficient details of all items not complying with specification to allow Onesys to dispute or remedy such non-compliance. Upon the satisfactory completion of any remedial or additional work set out in the Statement of Non-Compliance or otherwise agreed between the Parties the Customer shall accept the System and pay the balance of the Order Value
- 6.4. If delays in the installation and/or implementation of any element of the System are attributable to the acts, errors or omissions of the Customer and such delays exceed 30% of the calendar period set out for the installation and implementation of the System the Customer shall at the request of Onesys pay the balance of the Order Value. Onesys shall continue to be contractually bound to complete the installation and implementation of the System but shall have the right to recover from the Customer any additional costs reasonably incurred as a direct result of such delay
- 6.5. Onesys shall not be liable or deemed in breach of contract by reason of any delay or failure to perform any obligation under this agreement if the delay or failure is due to any cause beyond the reasonable control of Onesys including but not limited to industrial action, war, fire, prohibition or legal enactment or any act, error or omission of the Customer

7. SOFTWARE

- 7.1. The functionality and performance of any third party software supplied by Onesys as part of the System shall be as described in its operating manual and user documentation
- 7.2. The performance of any bespoke software supplied by Onesys shall be as prescribed in any formal specification agreed between the Parties. The Customer acknowledges it has entered into this agreement in reliance only on the basis of such formal agreed specification and save as expressly agreed in writing between the Parties Onesys shall have no liability in respect of any other representation, warranty or promise made prior to the date of this agreement



- 7.3. The bringing of an element of software into commercial use by the Customer indicates acceptance of that software and the End User Licence Agreement pertaining to that software

8. MAINTENANCE AND SUPPORT

- 8.1. Ongoing hardware maintenance provided by Onesys shall be subject to the terms and conditions set out in a separate Hardware Maintenance Agreement from time to time and the performance of such services shall not in any circumstances affect the rights and obligations of either the Customer or Onesys under this agreement
- 8.2. Ongoing software support provided by Onesys shall be subject to the terms and conditions set out in a separate Software Support Agreement from time to time and the performance of such services shall not in any circumstances affect the rights and obligations of either the Customer or Onesys under this agreement
- 8.3. Onesys shall not be responsible for any failure of hardware or software supplied under this agreement where such failure is caused by the Customer using ancillaries or accessories supplied by third parties that do not conform to the specifications set out by Onesys or the manufacturer or which are used in a manner other than that recommended by Onesys

9. TERMINATION

- 9.1. Without prejudice to any other legal rights and remedies it may have Onesys shall be entitled to treat this agreement as:
- repudiated by the Customer if the Customer is in material breach of this agreement and fails to remedy such breach within 21 days of Onesys providing written notice of such breach
 - terminated if the Customer has a receiver or administrator appointed over the whole or part of its assets, enters into any scheme of arrangement with its creditors or enters liquidation
- 9.2. Any non-enforcement of such a legal right shall not be deemed to be a waiver of that right

10. CANCELLATION

If the Customer purports to cancel this agreement it in doing so indemnifies Onesys for its actual and forecast costs under this agreement and its consequent loss of profits. Onesys shall have a duty to act in good faith including using best endeavours to mitigate its losses. If the amounts due to Onesys under this clause 10 are not agreed within one month of the purported cancellation by the Customer then Onesys may instead at its discretion recover from the Customer a cancellation fee of 50% of Order Value

11. LIABILITY & PRIVACY

- 11.1. The liability of Onesys under this agreement shall be limited to death or physical injury caused by the negligence of Onesys or its employees
- 11.2. Except as expressly provided within this agreement no liabilities, obligations, warranties, conditions or undertakings whether implied or express shall be deemed to form part of this agreement other than as specifically imposed by law. Onesys shall not be liable for any direct or indirect loss of profits however or whenever caused, or be liable in contract tort or otherwise for direct or consequential loss or damage or injury in connection with or arising in relation to the System supplied under this agreement
- 11.3. The Customer indemnifies Onesys in respect of any claim for loss, damage or personal injury arising from any malfunction caused by the modification of the System by the Customer
- 11.4. In order to fulfil this contract we will need to process some data about your organisation and people within your organisation – we will do so in accordance with our Privacy Policy which can be found on the www.onesys.co.uk website.

12. ENGAGEMENT OF PERSONNEL

Should any employee of Onesys be engaged by the Customer within one calendar year of the date of the payment of the final element of the Order Value the Customer shall within one month pay to Onesys compensation in the form of a recruitment fee of 25% of the relevant employee's salary, fees and benefits as contracted between the employee and the Customer

13. DISPUTES

If a dispute arises between the Parties with respect to any matter within the expertise of a technical expert then such dispute shall at the instance of either party be referred to a person agreed between the Parties and in default of such agreement within 21 days of notice from either party this person shall be the President for the time being of the British Computer Society. Such a person shall be appointed to act as expert and not as arbitrator and their decision shall be final and binding. The costs of such expert shall be borne equally by the Parties unless such expert decides that one of the Parties has acted unreasonably in which case he shall have discretion as to costs

14. SCOPE AND JURISDICTION

Unless expressly between the Parties no term of this agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it
This Agreement shall be governed by and construed in accordance with English law. Each of the Parties irrevocably submits for all purposes in connection with this agreement to the exclusive jurisdiction of the courts of England VER 18/03/19